

ESTTA Tracking number: **ESTTA660973**

Filing date: **03/13/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Vapor, LLC
Granted to Date of previous extension	04/01/2015
Address	1517 N. Pines Road Spokane Valley, WA 99206 UNITED STATES
Attorney information	Tanja Proehl Greer Burns & Crain, Ltd. 300 South Clark Street Suite 2500 Chicago, IL 60606 UNITED STATES tproehl@gbclaw.net, tmdocket@gbclaw.net

### Applicant Information

Application No	86157699	Publication date	12/02/2014
Opposition Filing Date	03/13/2015	Opposition Period Ends	04/01/2015
Applicant	Vapor Star Lounge, Inc 14000 Ventura Bl. Sherman Oaks, CA 91423 UNITED STATES		

### Goods/Services Affected by Opposition


Class 030. First Use: 0 First Use In Commerce: 0  
All goods and services in the class are opposed, namely: Chemical flavorings in liquid form used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form used to refill electronic cigarette cartridges

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4264496	Application Date	05/11/2012
Registration Date	12/25/2012	Foreign Priority Date	NONE
Word Mark	VAPOR LOUNGE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2009/11/27 First Use In Commerce: 2009/11/27 On-line retail store services featuring smoking products, electronics cigarettes, flavoring additives for use with electronic cigarettes, batteries, cases for electronic cigarettes, battery chargers, cartridges for electronic cigarettes, cartomizers, lanyards, t-shirts, hats, cups, key chains, atomizers.; Retail store services featuring smoking products, electronics cigarettes, flavoring additives for use with electronic cigarettes, batteries, cases for electronic cigarettes, battery chargers, cartridges for electronic cigarettes, cartomizers, lanyards, t-shirts, hats, cups, key chains, atomizers

Attachments	85623585#TMSN.png( bytes ) VAPOR STAR LOUNGE - Notice of Opposition.pdf(217032 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Tanja Proehl/
Name	Tanja Proehl
Date	03/13/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No.:	)
86/157,699	)
For the mark:	)
VAPOR STAR LOUNGE	)
	)
Vapor, LLC,	)
	)
Opposer,	)
	)
v.	)
	)
Vapor Star Lounge, Inc.	)
	)
Applicant.	)

**NOTICE OF OPPOSITION**

Box TTAB  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Sir:

The above-identified Opposer believes that it will be damaged by the registration of the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer, Vapor, LLC, is a limited liability company existing under the laws of Washington and having a principal place of business at 1517 N. Pines Road, Spokane Valley, Washington 99206, United States of America.

2. On information and belief, Applicant, Vapor Star Lounge, Inc., is a corporation existing under the laws of California, and having a principal place of business at 14000 Ventura Bl., Sherman Oaks, California 91423, United States of America.

3. At least as early as November 2009, Opposer adopted the trademark “VAPOR LOUNGE” for on-line retail store services and retail store services featuring various products, including smoking products, electronics cigarettes, flavoring additives for use with electronic cigarettes and various other related products (referred to as the “VAPOR LOUNGE Mark”). Since at least as early as November 2009, Opposer has continuously used the VAPOR LOUNGE Mark in connection with on-line retail store services and retail store services featuring various products, including smoking products, electronics cigarettes, flavoring additives for use with electronic cigarettes and various other related products.

4. When used in connection with Opposer’s services, Opposer’s VAPOR LOUNGE Mark is inherently distinctive.

5. Opposer is the owner of U.S. Trademark Registration No. 4,264,496 for the mark “VAPOR LOUNGE” for “*On-line retail store services*

*featuring smoking products, electronics cigarettes, flavoring additives for use with electronic cigarettes, batteries, cases for electronic cigarettes, battery chargers, cartridges for electronic cigarettes, cartomizers, lanyards, t-shirts, hats, cups, key chains, atomizers; Retail store services featuring smoking products, electronics cigarettes, flavoring additives for use with electronic cigarettes, batteries, cases for electronic cigarettes, battery chargers, cartridges for electronic cigarettes, cartomizers, lanyards, t-shirts, hats, cups, key chains, atomizers*” in International Class 035. A true and correct copy of Opposer’s registration is attached as Exhibit 1. Opposer’s registration is valid and subsisting, and is owned by Opposer.

6. On information and belief, on January 5, 2014, Applicant filed the subject application to register the mark “VAPOR STAR LOUNGE” in International Class 030 for “*Chemical flavorings in liquid form used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form used to refill electronic cigarette cartridges*” based on an intent to use.

7. Opposer’s rights in its “VAPOR LOUNGE” mark is superior to any rights Applicant may have in the opposed “VAPOR STAR LOUNGE” mark, since Opposer’s use and registration of the VAPOR LOUNGE Mark pre-dates the filing date of Applicant’s Application No. 86/157,699.

8. On information and belief, Applicant has applied to register its “VAPOR STAR LOUNGE” mark on goods that are similar to the services covered by Opposer’s “VAPOR LOUNGE” mark.

9. Simultaneous use of Opposer’s “VAPOR LOUNGE” trademark and Applicant’s “VAPOR STAR LOUNGE” mark for their respective goods and services is likely to cause public confusion, mistake and/or deception in violation of Section 2(d) of the Trademark Act. 15 U.S.C. §1052(d). Applicant’s mark is confusingly similar to Opposer’s “VAPOR LOUNGE” trademark. Applicant’s goods covered by the opposed “VAPOR STAR LOUNGE” application are closely related, overlapping or at least similar to the services covered by Opposer’s “VAPOR LOUNGE” trademark, and the conditions surrounding the marketing are such that they could be encountered by the same purchasers under circumstances that use of similar marks would give rise to the mistaken belief that the parties’ respective services come from a common source.

10. Use of the “VAPOR STAR LOUNGE” mark as shown in Application No. 86/157,699 is likely to dilute the distinctive quality of Opposer’s “VAPOR LOUNGE” trademark in violation of Section 43(c) of the Trademark Act. 15 U.S.C. § 1125(c).

11. Opposer will be damaged by the registration of Applicant's mark.

WHEREFORE, Opposer prays that registration of Applicant's Application No. 86/157,699 for the mark "VAPOR STAR LOUNGE" be refused registration.

The required fee of \$300.00 is enclosed.

Dated: March 13, 2015

By /Tanja Proehl  
Tanja Proehl  
Attorney for Opposer

Greer, Burns & Crain, Ltd.  
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Suite 2500  
Chicago, Illinois 60606  
Telephone: (312) 360-0080  
Facsimile: (312) 360-9315

# EXHIBIT 1



# United States of America

United States Patent and Trademark Office

## Vapor Lounge

**Reg. No. 4,264,496**

**Registered Dec. 25, 2012**

**Corrected Mar. 3, 2015**

**Int. Cl.: 35**

**SERVICE MARK**

**PRINCIPAL REGISTER**

VAPOR, LLC (WASHINGTON LIMITED LIABILITY COMPANY)  
1517 N. PINES ROAD  
SPOKANE VALLEY, WA 99201

FOR: ON-LINE RETAIL STORE SERVICES FEATURING SMOKING PRODUCTS, ELECTRONICS CIGARETTES, FLAVORING ADDITIVES FOR USE WITH ELECTRONIC CIGARETTES, BATTERIES, CASES FOR ELECTRONIC CIGARETTES, BATTERY CHARGERS, CARTRIDGES FOR ELECTRONIC CIGARETTES, CARTOMIZERS, LANYARDS, T-SHIRTS, HATS, CUPS, KEY CHAINS, ATOMIZERS.; RETAIL STORE SERVICES FEATURING SMOKING PRODUCTS, ELECTRONICS CIGARETTES, FLAVORING ADDITIVES FOR USE WITH ELECTRONIC CIGARETTES, BATTERIES, CASES FOR ELECTRONIC CIGARETTES, BATTERY CHARGERS, CARTRIDGES FOR ELECTRONIC CIGARETTES, CARTOMIZERS, LANYARDS, T-SHIRTS, HATS, CUPS, KEY CHAINS, ATOMIZERS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 11-27-2009; IN COMMERCE 11-27-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,864,131.

SER. NO. 85-623,585, FILED 5-11-2012.



*Michelle K. Lee*

Deputy Director of the United States  
Patent and Trademark Office